

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:17-CR-00064-KDB-1

USA

v.

SAUL MARTINEZ-OCHOA

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ORDER

**THIS MATTER** is before the Court upon motion of the defendant pro se for a reduction of sentence and a recalculation of his sentence to incorporate the good-time credit in the First Step Act of 2018 (FSA) (Doc. No 60).

The defendant pled guilty to conspiracy to possess with intent to distribute cocaine in violation of 21 U.S.C. §841(b)(1)(A) (Count One), Section 404(c) of the First Step Act specifies that a court “shall not entertain” a reduction motion where the sentence was imposed in accordance with the Fair Sentencing Act of 2010. Here, the defendant was sentenced on October 15, 2018, (Doc. No. 57: Judgment at 1), well after the effective date of the Fair Sentencing Act. Therefore, he is not eligible for a sentence reduction under the First Step Act.

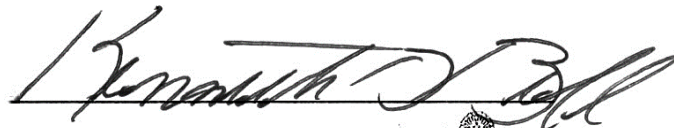
The FSA amended 18 U.S.C. § 3624(b)(1) to change the manner in which good time credits are calculated by increasing the maximum allowable good conduct time from 47 to 54 days per year. However, it is the responsibility of the Attorney General, through the Bureau of Prisons, to compute jail credit. United States v. Stroud, 584 F. App’x 159, 160 (4th Cir. 2014) (citing United States v. Wilson, 503 U.S. 329, 334-35 (1992)). If a defendant is not given the sentencing credit he thinks he deserves, his recourse is first to seek an administrative remedy, 28

C.F.R. § 542.10, and after that to file a petition under 28 U.S.C. § 2241 in the district of confinement.<sup>1</sup> Id.

**IT IS, THEREFORE, ORDERED** that the defendant's motion, (Doc. No. 60) is **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: April 16, 2020

A handwritten signature in black ink, appearing to read 'Kenneth D. Bell', written over a horizontal line.

Kenneth D. Bell  
United States District Judge



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<sup>1</sup> The defendant is serving his sentence at Big Spring CI in Big Spring, Texas, according to the Bureau of Prisons website.